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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 GUADALUPE OLVERA FAMILY TRUST, )

11 Plaintiff(s), )

12 vs. )

13 JARED E. SHAFER, et al., )

14 Defendant(s). )  
15

Case No. 2:14-cv-01298-GMN-NJK

ORDER

(Docket Nos. 205, 206)

16 Pending before the Court is Plaintiff's motion for default judgment against Defendant Patience  
17 Bristol for \$162,221.25 in compensatory damages and another \$300,000 in punitive damages. Docket  
18 No. 205; *see also* Docket No. 206 (affidavit). "A defendant's default does not automatically entitle the  
19 plaintiff to a court-ordered judgment." *PepsiCo., Inc. v. Cal. Sec. Cans.*, 238 F. Supp. 2d 1172, 1174  
20 (C.D. Cal. 2002). In order to obtain default judgment, the movant must make a threshold showing that  
21 service was properly effectuated and that the Court has personal jurisdiction over the defaulting  
22 defendant. *Tuli v. Republic of Iraq*, 172 F.3d 707, 712 (9th Cir. 1999); *see also DFSB Kollektive Co.*  
23 *v. Bourne*, 897 F. Supp. 2d 871, 877 (N.D. Cal. 2012). Even if that showing has been made, whether  
24 a default judgment should be entered is an issue entrusted to the discretion of the district court. *See*  
25 *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980). The Ninth Circuit has determined that district  
26 courts should look at seven discretionary factors before rendering a decision on default judgment. *See*  
27 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).  
28

1 The movant seeking default judgment also has the burden of proving its damages. *See, e.g.,*  
2 *Shanghai Automation Instrument Co. v. Kuei*, 194 F. Supp. 2d 995, 1010 (N.D. Cal. 2001). Generally  
3 speaking, damages are proven through the submission of evidence or the holding of an evidentiary  
4 hearing. *See Philip Morris USA, Inc. v. Castworld Prods., Inc.*, 219 F.R.D. 494, 498 (C.D. Cal. 2003).  
5 Punitive damages are not awarded as of right, but rather require a showing that the defendant's conduct  
6 meets the legal requirements for triggering punitive damages. *See Dolphin v. Ruiz*, 2008 WL 4552940,  
7 \*3 (C.D. Cal. Oct. 9, 2008) (addressing punitive damages under 42 U.S.C. § 1983). Generally speaking,  
8 punitive damages cannot be awarded simply on the basis of pleadings and instead can only be awarded  
9 based on an evidentiary showing. *See, e.g., Hauge v. Adriatic Ins. Co.*, 2013 WL 5587365, \*2 (E.D. Cal.  
10 Oct. 10, 2013).

11 Plaintiff's 18-line motion for default judgment fails to address the sufficiency of service, fails  
12 to show that the Court has personal jurisdiction over Defendant Bristol, fails to address the *Eitel* factors,  
13 fails to provide meaningful discussion as to compensatory damages, and fails to identify any basis for  
14 an award of punitive damages. *See* Docket No. 205. Accordingly, the motion for default judgment is  
15 **DENIED** without prejudice. Any further motion for default judgment must be filed by October 17,  
16 2017. Counsel shall carefully review the required showings for entry of default judgment and must  
17 address all relevant issues in any renewed motion.<sup>1</sup> Any renewed motion must provide meaningful  
18 discussion of each relevant issue, *see, e.g., Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 582 n.3  
19 (D. Nev. Oct. 29, 2013), and may not incorporate by reference filings made elsewhere in the case.

20 IT IS SO ORDERED.

21 DATED: October 10, 2017

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23 \_\_\_\_\_  
24 NANCY J. KOPPE  
25 United States Magistrate Judge  
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28 <sup>1</sup> The Court does not herein purport to list all defects with the current motion. Counsel must ensure  
that any renewed motion not only comports with the requirements outlined herein but also that it comports  
with any other applicable requirements.